

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JAMES SCHINGLER,</b>	:	<b>No. 3:13cv1388</b>
<b>Plaintiff</b>	:	
<b>v.</b>	:	<b>(Judge Munley)</b>
	:	
<b>UNITED STATES OF AMERICA,</b>	:	<b>(Magistrate Judge Schwab)</b>
<b>Defendant</b>	:	

.....

**ORDER**

**AND NOW**, to wit, this 13th day of March 2014, it is **HEREBY**

**ORDERED** as follows:

1. The Government's objections to the Report and Recommendation (Doc. 31) are **SUSTAINED in part and OVERRULED in part** and the Government's motion to dismiss (Doc. 17) is **GRANTED in part and DENIED in part**;
2. The Government's objections are sustained to the extent that Magistrate Judge Schwab's Report and Recommendation (Doc. 31) is not adopted regarding count one, negligent cell placement. Count one is **DISMISSED** with prejudice;
3. The Government's objections are **OVERRULED** to the extent that Magistrate Judge Schwab's Report and Recommendation (Doc. 31) is **ADOPTED** regarding count two, negligent search for the razor blade and count three, negligent failure to intervene.

4. This case is **REMANDED** to Magistrate Judge Schwab for further proceedings pertaining to counts two and three.
5. Plaintiff's motion seeking an extension of time to respond to the government's objections (Doc. 39) is **DENIED**.

**BY THE COURT:**

s/ James M. Munley  
**JUDGE JAMES M. MUNLEY**  
**United States District Court**